

U.S. DISTRICT COURT
DISTRICT OF VERMONT
FILED

2014 JUN 23 PM 3:43

UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF VERMONT

CLERK
BY RC
DEPUTY CLERK

Allen Rheume,)	
)	
Plaintiff,)	
)	
v.)	Case No. 5:11-cv-72
)	
Andrew Pallito, Susan Onderwyzer,)	
Jackie Kotkin, David Peebles,)	
Michele Young, Cullen Bullard,)	
Keith Talon, Krista Prior,)	
Marshall Rich, Tom Rowden,)	
Sandra Olberg, Tammy Kennison,)	
Georgia Cummings, Jerri Brouillette,)	
Tammy Smith, Steve Hoke,)	
Anita Carbonell, Lynn Roberto,)	
Sue Random Kelly, Edward Holtrop,)	
and Heather Ward,)	
)	
Defendants.)	

**ORDER ADOPTING MAGISTRATE JUDGE'S REPORT AND
RECOMMENDATION**
(Doc. 159, 165)

This matter came before the court for a review of the Magistrate Judge's April 25, 2014 Report and Recommendation ("R & R"). Plaintiff has filed a motion for relief from judgment and for a replacement copy of the civil case file. (Doc. 159.) Neither party has objected to the R & R, and the deadline for doing so has expired.

Pursuant to 42 U.S.C. § 1983, Plaintiff Allen Rheume, a Vermont inmate, seeks compensatory damages in the amount of \$250,000, as well as \$250,000 in punitive damages "against each and every defendant". (Doc. 55 at 9.) Plaintiff alleges violation of the Fourteenth and Eighth Amendments, and violations of the Vermont constitution and statutory law. Mr. Rheume more specifically alleges that he was classified as a

high-risk sex offender without proper notice or due process; that his release on conditional reentry was arbitrarily delayed; that his programming requirements violate Vermont Department of Corrections policies; and that Defendants denied him a “correct treatment program” and a liberty interest in parole. (Doc. 55 at 8, ¶ 32.) While Mr. Rheume was in lock down and segregation, Magistrate Judge Conroy issued an R & R in which he recommended that Plaintiff’s motion for summary judgment be denied and Defendants’ cross-motion for summary judgment be granted. (Doc. 145 at 22.) Mr. Rheume’s understanding at that time was that he would be in segregation for another four months and that he would not be able to object to the R & R. (Doc. 159-2 at 3.) He then filed a motion to dismiss his claims. (Doc. 146.) The court entered judgment dismissing the case. (Doc. 148.) Mr. Rheume subsequently filed a motion for relief from judgment and for a “replacement copy” of the court’s civil case file. (Doc. 159.)

A district judge must make a *de novo* determination of those portions of a magistrate judge’s report and recommendation to which an objection is made. Fed. R. Civ. P. 72(b); 28 U.S.C. § 636(b)(1); *Cullen v. United States*, 194 F.3d 401, 405 (2d Cir. 1999). The district judge may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1); *accord Cullen*, 194 F.3d at 405. A district judge, however, is not required to review the factual or legal conclusions of the magistrate judge as to those portions of a report and recommendation to which no objections are addressed. *Thomas v. Arn*, 474 U.S. 140, 150 (1985). When no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation. *See Campbell v. United States Dist. Court*, 501 F.2d 196, 206 (9th Cir. 1974), *cert. denied*, 419 U.S. 879 (1974).

In his R & R, the Magistrate Judge carefully reviewed the record and properly determined that Plaintiff is not entitled to relief from the judgment under Fed. R. Civ. P. 60(b). The court finds the Magistrate Judge’s recommendation well-reasoned. As the Magistrate Judge points out, since this case was dismissed without prejudice, Mr. Rheume may refile his claim should he desire to do so. The court makes no ruling at

this time regarding whether the applicable statute of limitations has expired. Mr. Rheaume also seeks a “replacement copy” of his civil case file. Upon request, he may obtain copies of specific documents free of charge or may request a waiver of PACER fees and obtain the documents electronically.

For the foregoing reasons, the court hereby ADOPTS the Magistrate Judge’s R & R as the court’s Order and Opinion, and DENIES in part and GRANTS in part Plaintiff’s motion for relief from judgment and motion for a replacement copy of civil his case file. (Doc. 159.)

SO ORDERED.

Dated at Rutland, in the District of Vermont, this 23rd day of June, 2014.

A handwritten signature in black ink, appearing to read 'Christina Reiss', written over a horizontal line.

Christina Reiss, Chief Judge
United States District Court